

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
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July 05, 2022

Mr. Philip Devlin
Western District of Texas, Austin
United States District Court
501 W. 5th Street
Austin, TX 78701-0000

No. 21-50451 USA v. Marquardt
USDC No. 1:16-CR-59-1

Dear Mr. Devlin,

Enclosed is a copy of the judgment issued as the mandate and a copy of the court's opinion.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Casey A. Sullivan, Deputy Clerk
504-310-7642

cc:

Ms. Elizabeth Berenguer
Mr. Joseph H. Gay Jr.
Mr. Timothy Marquardt



United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 13, 2022

Lyle W. Cayce
Clerk

Certified as a true copy and issued
as the mandate on Jul 05, 2022

Attest: *Lyle W. Cayce*
Clerk, U.S. Court of Appeals, Fifth Circuit

No. 21-50451
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

TIMOTHY MARQUARDT,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:16-CR-59-1

Before SOUTHWICK, OLDHAM, and WILSON, *Circuit Judges.*

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

United States Court of Appeals
for the Fifth Circuit

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PER CURIAM:*

Timothy Marquardt, federal prisoner # 70526-380, appeals the denial of his 18 U.S.C. § 3582(c)(1)(A)(i) motion for compassionate release. We review the denial, which the district court based upon Marquardt's failure to

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-50451

show extraordinary and compelling reasons, for an abuse of discretion. *See United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020).

Insofar as Marquardt raises claims of ineffective assistance of counsel, he fails to show that the district court erred as a matter of law by holding that the § 3582(c)(1)(A)(i) motion was not a viable substitute for a timely filed 28 U.S.C § 2255 motion. *See id.* Marquardt’s claim invoking *Rehaif v. United States*, 139 S. Ct. 2191 (2019), is insufficiently briefed to warrant our consideration. *See United States v. Scroggins*, 599 F.3d 433, 446-47 (5th Cir. 2010). We do not address any argument regarding the sentencing factors of 18 U.S.C. § 3553(a). *See United States v. Jackson*, 27 F.4th 1088, 1093 n.8 (5th Cir. 2022).

AFFIRMED.